

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1635 OF 2019

Naushad Jahangir Saiyed] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Ms. Sonal Parab a/w Ms. Aishwarya Pagare i/b Rajeev Sawant and Associates, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 24th JULY, 2019.

P. C. :-

1. The applicant is apprehending his arrest in connection with C.R.No.57/2019 registered at Roha Police Station, District Raigad u/sec. 419, 420, 465, 467, 468, 471 r/w 34 of I.P.C.

2. The applicant has preferred Criminal Misc. Application No.125/2019 before the Assistant Sessions Judge, Raigad at Mangaon for anticipatory bail. That application is pending. However, in that application, another application vide Exh.4 for interim protection was preferred by the applicant. Ld. Assistant Sessions Judge observed that custodial interrogation of the applicant would be essential in this case to enable investigating agency to investigate in detail about the crime

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and involvement of accused. It is observed that, otherwise it would not be possible for the Investigating Officer to trace the culprits and it would cause hindrance to the investigation. In wake of these observations, the main application for anticipatory bail was kept pending. A notice was issued to the Respondent which was made returnable on 20/07/2019. The application for interim relief was rejected. This order was passed on 12/07/2019.

3. Ld. Counsel appearing for the applicant states that on 20/07/2019, the board of Assistant Sessions Judge was discharged and the matter did not reach. Now the next date is on 29/07/2019. She submits that, the applicant is still under apprehension of arrest and yet his anticipatory bail application is still pending before the Assistant Sessions Judge, Raigad at Mangaon. She submitted that, this has given rise of anomalous situation.

4. Ld. Counsel for the applicant also pointed out the allegations in the FIR. The FIR is lodged by one Chandrashekhar. He has stated in his FIR that, his friend Nirav Nahar had purchased a piece of land admeasuring 67-40 R from Survey No.203 and 0.61 H 00 R from Survey No.304 from one Sushil Bharatu. Subsequent inquiries

revealed that, the person Sushil Bharatu had expired long time back. Some person had impersonated him while the sale deed was executed and registered. On this basis, the FIR is lodged. The investigation reveals that one Harish had posed as Sushil Bharatu.

5. Ld. Counsel for the applicant submitted that, Ld. Assistant Sessions Judge either should have dismissed the application at that time or should have at least granted interim protection. Keeping the application pending without granting interim protection does not serve any purpose. In support of her contention, she relied on the order passed by this court (Coram : A.S. Oka J.) on 08/06/2005 in Criminal Application No.3561 of 2005. This order was based on another order passed by this court in Criminal Application No.4361 of 2004 dated 12/10/2004. It was observed therein that “if the Sessions Judge was not inclined to entertain the Application, he should have dismissed the application in its entirety. Instead of dismissing the application, learned Sessions Judge had rejected the Application for ad-interim relief and had kept the main application pending for hearing. In the circumstances, this court had protected the applicant therein till the main application was disposed of by the Sessions Court”. On these

observations, interim protection was granted by this court to the applicant therein till pendency of his main application before the Sessions Court.

6. Similar course can be adopted in this case as well. Hence, the following order.

ORDER

1. During pendency and final disposal of Criminal Misc. Application No.125/2019 pending before the Assistant Sessions Judge, Raigad at Mangaon, in the event of his arrest in connection with C.R.No.57/2019 registered at Roha Police Station, District Raigad, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

2. The applicant shall co-operate in prompt disposal of Criminal Misc. Application No.125/2019 pending before the Assistant Sessions Judge, Raigad at Mangaon.

3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)